

**Staff
Summary
Report**



To: Mayor & City Council
Through: City Manager

Agenda Item Number *36a*
Meeting Date 12/14/00

SUBJECT: Letter of Intent between the City of Tempe and Papago Park Center Board

PREPARED BY: Patrick Flynn, Chief Financial Officer (x8399)

REVIEWED BY: Patrick Flynn, Chief Financial Officer (x8399)

BRIEF: Authorize the City Manager to execute a Letter of Intent with the Papago Park Center Board for the proposed stadium site at Priest and Washington.

COMMENTS: SPORTS ADMIN (0105-01-07) Authorize the City Manager to execute a Letter of Intent with the Papago Park Center Board for the proposed stadium site at Priest and Washington. The letter defines the business points for a possible long-term ground lease of the land. However, the ground lease is subject to further negotiation with the Papago Park Center group. The parties have a 90-day due diligence period from the execution of the letter. Additionally, a \$50,000 deposit is due upon its execution. Such deposit is refundable if the Tourism and Sports Authority does not select this site for the stadium

Document Name: (20001214mgrpf01) **Supporting Documents:** Yes

SUMMARY: The Letter of Intent defined the business points for a possible long-term ground lease of the land. However, the ground lease is subject to further negotiation with the Papago Park Center group. The parties have a 90-day due diligence period from the execution of the letter. Additionally, a \$50,000 deposit is due upon its execution. Such deposit is refundable if the Tourism and Sports Authority does not select this site for the stadium.

FISCAL NOTE: Upon execution of the Letter of Intent, a \$50,000 due-diligence deposit is due, refundable if the Authority does not select this site for the stadium. Sufficient monies exist in our contingent account to make the deposit.

RECOMMENDATION: That the City Council authorize the City Manager to approve the Letter of Intent with the Papago Park Center group for consideration by their Board.



PAPAGO PARK CENTER

November 28, 2000

Mr. Patrick Flynn
City of Tempe
P. O. Box 5002
Tempe, AZ 85280

Re: Cardinals Stadium at Papago Park Center

Dear Mr. Flynn:

The purpose of this Letter of Intent is to define business points that would be the basis of a long-term ground lease with the City of Tempe (COT). Please carefully review the business points. If accepted by COT, they will be presented to the Papago Park Center, Inc. Board of Directors for approval. If they are approved by aforementioned Board of Directors, PPC Management will not later vary the terms without Board consent. Once the business terms have been agreed upon and approved, the property will be removed from the market.

Property: The subject property ("Property") is 40 acres of a 68.8 acre site located South of Washington Street, East of Priest Drive and North of the Loop 202 Freeway in a configuration acceptable to both parties.

Use: The Property will be used for a multi-purpose stadium, related parking, infrastructure and public plaza spaces.

Lease Terms: Papago Park Center ("Lessor") and COT ("Lessee") will execute an unsubordinated NNN ground lease for 30 years with an additional ~~two~~ (3) fifteen year options. Rent shall start upon lease execution. The lease shall be executed within seven (7) days after the close of the due diligence period. Minimum rent shall be as follows.

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|--------------|------------------|
| • Years 1-3 | \$1.05/s.f./year |
| • Years 4-6 | \$1.12/s.f./year |
| • Years 7-10 | \$1.20/s.f./year |

The Lease rate shall be adjusted starting in Year 11 and for each subsequent cumulative five year period based on the CPI index, but in no event less than the previous rent.

Parking Agreement: The Lessee and Lessor will negotiate a mutually agreeable interim parking arrangement on the remaining 20 leasable acres until development of all or a portion of said acreage occurs by third parties.

Due Diligence Deposit: Upon execution of this Letter of Intent, a \$50,000 Due Diligence Deposit is due. This deposit will remove the Property from the market for the benefit of the Lessee in accordance with the terms and conditions of this Letter of Intent. All deposits will be credited to the first year's rental if the lease is executed.

Due Diligence: Lessee/Lessor shall have a 90-day due diligence period from execution of the Letter of Intent ("Due Diligence Term"). By the end of the Due Diligence Term all contingencies listed are considered waived and the Due Diligence Deposit non-refundable. Should either party disapprove an item below, or if the Tourism and Sports Authority does not select the property for the stadium, then the Due Diligence Deposit will be returned and there will be no further obligations by either party and the Property will be returned to the market.

- Review of Financial Information: Upon execution of the Letter of Intent, Lessee will provide Lessor with financial statements of the entity signing the ground sublease and/or verification of financing to complete the proposal project. Lessor may determine that a lease guarantee is required. If so, the guaranteeing entity will also submit financial statements for Lessor's approval. Lessor, in its sole discretion, will approve or disapprove the information provided.
- Review and approval of Phase I environmental site assessment as provided by Lessor.
- Lessee will provide a site plan and infrastructure concept design for Lessor's approval.
- Lessee/Lessor to review and approve preliminary title report as provided by a title company of Lessee's choosing that is acceptable to Lessor.
- Lessee to complete and approve any necessary engineering evaluations and other site condition assessments.
- Lessee must provide to Lessor a documented acknowledgement by the City of Mesa stating the City of Mesa's concurrence with Tempe's decision of a PPC location for the stadium.

Papago Park Center Board Approval: This Letter of Intent is subject to Papago Park Center Board approval. Should the PPC Board disapprove the Letter of Intent, then the Due Diligence Fee will be refunded, the Property will be returned to the market, and there will be no further obligation by either party. Lessor will schedule the required Board meeting upon receipt of an executed Letter of Intent.

Zoning/Design Review Approvals: Lessee shall be responsible for all submittals required to obtain necessary approvals from the City of Tempe, FAA, State of Arizona or others as required including, but not limited to, Planned Area Development, plat, design submittals, models, etc. Lessor will assist by sharing any information which Lessee may deem helpful provided Lessor has information readily available. Such information is for reference only and Lessee agrees not to rely upon such information. Lessor will attend city meetings as desired by Lessee.

Stadium Name: Lessee agrees, and will covenant in any documents pertinent to the site being approved for use as a Stadium, that the Stadium will not carry the name of any Energy Provider, Energy Corporation, or Energy Company, including the parent, affiliate or subsidiary of any of the same, unless first waived in writing by Lessor, which written waiver Lessor shall have no obligation to provide.

Acknowledgement: Lessee acknowledges and agrees that the Property is part of a planned area development which may permit and include multiple uses, including, but not limited to, office, hotel, restaurant, retail, corporate center, research development center, light industrial and any other uses now or hereafter permitted by applicable zoning. Such uses may require or permit high-rise buildings and other high density and/or intensive developments within Papago Park Center.

Brokerage: Lessor acknowledges that there is no Brokerage commission due on the property.

CC&R's and Master Design Guidelines: The Property will be subject to the CC&R's and the Papago Park Center Association Master Design Guidelines. Lessor reserves the right to hire an architectural representative to complete all reviews of design as required by the ground lease and CC&R's. The current Association fees for fiscal year 00/01 are \$347.71 per acre per year.

Design Approvals and City Submittals: Lessor has the right to review and approve all submittals to the City, State Tourism and Sports Authority, or other approving bodies prior to the actual submittal.

Title Insurance: Lessor will provide a standard owner's title policy.

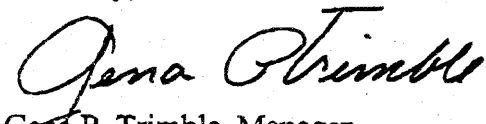
Assignment: Lessee has the right to assign its rights under the sublease in accordance with the sublease terms.

Entry: Lessee will be entitled to enter onto the Lease Property at a reasonable time acceptable to Lessor after acceptance of this letter by Lessor and during the escrow period to conduct such tests, studies or analysis as it may deem desirable. Lessee, however, will restore the same and will indemnify Lessor from any liability arising therefrom.

Offer Expiration: Papago Park Center will honor the terms of this letter until 5:00 p.m. Monday, December 18, 2000, however we will not take the Property off the market until such time as both parties have executed this letter of intent.

If the terms and conditions outlined in this letter are acceptable, please indicate your acceptance below. If you have any questions, please do not hesitate to call. Papago Park Center looks forward to working with you.

Sincerely,


Gena P. Trimble, Manager
Land and Papago Park Center

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cc: Mr. William P. Schrader, President, Papago Park Center and SRP
Mr. Richard M. Hayslip, Manager, Environmental, Land, and Papago Park Center

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ACCEPTED:

Patrick Flynn

City of Tempe

Date